

**MANDATE**  
**United States Court of Appeals**  
**For the First Circuit**

04-30019  
USDC/MA  
Ponsor, M.

No. 06-1121

UNITED STATES,

Appellee,

v.

ROBERT KNOWLES,

Defendant, Appellant.

Before

Torruella, Lynch and Lipez,  
Circuit Judges.

**JUDGMENT**

Entered: November 15, 2006


Appellant makes three challenges to his sentence, all of which we reject. First, prior convictions can be found by the court, under the preponderance of the evidence standard. See United States v. Ivery, 427 F.3d 69, 74 (1<sup>st</sup> Cir. 2006). Second, whether the prior convictions should be considered "violent" offenses for purposes of the armed career criminal act is a question of law and therefore a proper one for the district court. See United States v. Shepard, 544 U.S. 13 (2005). Finally, one of the challenged predicate offenses was for "escape," another was for attempted escape. Every circuit to address the question has held escape to be a violent felony. See, e.g., United States v. Childs, 403 F.3d 970 (8<sup>th</sup> Cir. 2005) (citing other Courts of Appeals and holding "walkaway" escape a violent felony). Cf. United States v. Winn, 364 F.3d 7, 11 (1<sup>st</sup> Cir. 2004), (non-violent felony escape considered crime of violence for purposes of career offender guideline enhancement).

The government's motion for summary affirmance is granted.

The judgment is affirmed. See 1<sup>st</sup> C. R. 27(c).

**Certified and Issued as Mandate  
under Fed. R. App. P. 41.**

**Richard Cushing Donovan, Clerk**

  
**Deputy Clerk**

**Date:** 12/6/06

By the Court:

Richard Cushing Donovan, Clerk.

**MARGARET CARTER**

By: \_\_\_\_\_

Chief Deputy Clerk.

[cc: Alan J. Black, Esq., Paul Hart Smyth, AUSA,  
Dina Michael Chaitowitz, AUSA, Robert Knowles]